

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:- HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.811 of 1999

DATE OF ORDER: 25th JANUARY, 2001

BETWEEN:

K.Sundaraiah.

.. APPLICANT

AND

1.The Divisional Railway Manager(MG)

South Central Railways,
Sanchalan Bhavan, Secunderabad.

2. The Chief Operations Manager,
South Central Railways, Rail Nilayam,
Secunderabad.

3. The Additional General Manager,
South Central Railways,
Rail Nilayam, Secunderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.KRISHNA RAO

COUNSEL FOR THE RESPONDENTS: Mr.D.F.PAUL

CORAM:

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN

HON'BLE SRI M.V.NATARAJAN, MEMBER (ADMN.)

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JUDGEMENT

ORDER (PER HON'BLE SRI JUSTICE V.RAJAGOPALA REDDY,
VICE CHAIRMAN)

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The applicant, who is Driver of a Goods Train, challenges the order dated 8.1.99 by which he was awarded the punishment of reduction to lower grade of Shunter to six months (non-cumulative).

2. To narrate the facts in brief, on the intervening night of 4/5.7.1983 at 0-40 hours, the applicant was assigned the duty to work in the light engine from Bellampalli to Peddampet and from Peddampet to Balharshah. By the time he reached the intervening station by 0945 AM, he had completed more than 8 hours duty. As per the circular dated 3.4.1981(Annexure.R-II), he requested for the relief as he had completed his duty hours but no relief was provided for. When he reached Sirpur Town, he completed 14 working hours. Even then he had not been provided with any relief and he was asked to proceed to Balharshah by the Additional Railway Manager, Secunderabad. As the applicant was dog-tired and was unable to proceed further and as he had already completed more than the required duty hours, he reiterated his request for the relief. As he was forced to go to Balharshah, he did work the train and reached Balharshah at 1930 hours. Thus the applicant had performed his duty continuously for a period of 17.35 hours at a stretch. The applicant was, however, placed under suspension by the Divisional Mechanical Engineer and a charge memo was issued alleging that he refused to work ~~on~~ the train from Sirpur and demanded relief in disobedience of the orders passed by the Addl. Divisional Railway Manager to work the train upto Balharshah. As the applicant denied the charge, an inquiry has been conducted by an Inquiry Officer who found him guilty of the charge and the disciplinary authority agreeing with his findings, removed him from service by the order dated 24.5.1985. When the

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applicant challenged the order in OA 364/86 before this Bench, the same was allowed on the ground that the applicant was not given opportunity of representation against the Inquiry Officer's report before passing the removal orders. The respondents were given the liberty of supplying a copy of the Inquiry report and to proceed from that stage. Accordingly, a fresh inquiry has been held and the impugned order was passed awarding the punishment of reduction in the rank from the post of Driver to Shunter for a period of 3 years. The appellate authority in its order dated 26.10.1992 reduced the punishment of reversion from the period of three years with cumulative effect to a period of one year without cumulative effect. The revisional authority in its order dated 8.1.99 further reduced the punishment from one year to six months.

3. The learned counsel for the applicant vehemently argues that the impugned order is illegal, and that the finding of disobeying the order of Addl.DRM is contrary to the Railway Board's orders and the authorities instead having failed to comply with his request to grant the relief have now charged him for misconduct which is quite unjust and illegal. The learned counsel for the respondents, however, maintains that the impugned order is perfectly in order. The applicant having refused to avail the relief when asked for at the relief stations and having undertaken to work at the train till Balharshah, stopping the train at Sirpur and causing great inconvenience, will definitely constitute disobedience of the orders of the superior officers. The authorities taking into consideration all the factors into account, earlier removed the applicant

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from service and subsequently taking a lenient view had imposed the punishment of reduction in rank to the post of Shunter for six months. Thus a very lenient and humanitarian approach was shown by the respondents in respect of the applicant and the applicant cannot now make any grievance of the impugned order.

4. We have given careful consideration to the orders of the disciplinary authority, appellate and the revisional authorities and to the contentions raised by the learned counsel on either side. The only allegation against the applicant is that he had disobeyed the orders of the superior officers in stopping the train at Sirpur and seeking the relief and thus causing dislocation of train services. It is significant that the disciplinary authority, the appellate and the revisional authorities had consistently taken the view that the applicant had over worked for more than 10 hours and that he was entitled for the relief even before he reached the Sirpur Town. It is also not disputed that the applicant had sought for the relief even at Rechini Road and that his asking for the relief was in order. It was also found that it was not justified of the administration in not providing the relief. In the order of the appellate authority, it was clearly stated, "The action taken by Shri Sunderaiah in asking for relief is in order. There is failure on the part of the Administration i.e, SCOR and PCOR in not arranging relief in time eventhough they had been informed well in time. There is, however, indication that the Driver had not obeyed the orders of ADRM who had spoken to him to work the train upto BPQ even beyond the duty hours,

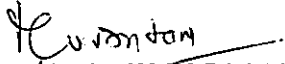


which cannot be condoned." What was found fault with the applicant was that he disobeyed to work beyond Sirpur Town upto Ballarshah even though it was beyond the duty hours. But it should be seen that the applicant had in fact taken the train to Ballarshah. However, in the process, he stopped the train at Sirpur Town for some time. The authorities were not happy with the punishment of removal awarded to the applicant in the initial order which was set-aside by the Court and ordered for fresh inquiry. Thereafter, he was awarded the punishment of reversion to the post of Shunter for a period of three years by the disciplinary authority, but the same was reduced by the appellate authority to a period of one year and thereafter by the revisional authority for a period of six months. Thus, it appears that the authorities were not very sure of the misconduct alleged against the applicant. In our view, this is not a case of wilful disobedience of the orders of the superior officers. He had only expressed his disgust over the officers' indifference in not providing relief even though he had worked for more than 10 hours at a stretch. The duty of a Driver in a goods train cannot be said to be a light duty and hence one should not be forced to work for more than 10 hours which was the stipulated period of duty under the rules. It appears, in this case, the applicant had worked for more than 14 hours at a stretch by the time he reached Ballarshah. In the circumstances, the view taken by the respondents appears to be opposed to the facts and findings and the impugned orders are thus vitiated.

5. The OA, therefore, succeeds and the impugned



orders are quashed. The OA is allowed as prayed for with costs of Rs.750/-.


(M.V. NATARAJAN)
MEMBER (ADMN.)


(V. RAJAGOPALA REDDY. J)
VICE CHAIRMAN

DATED: 25th JANUARY, 2001

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